

ENERGY AND ENVIRONMENT CABINET

Department for Natural Resources

Division of Oil and Gas

(Amended After Comments)

805 KAR 1:200. ~~[Administrative fees and]~~ General information associated with oil and gas permits.

RELATES TO: KRS 349.120 353.550, 353.735-353.747

STATUTORY AUTHORITY: KRS 349.040, 353.540, 353.570, 353.590, 353.745

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.540 authorizes the department to promulgate administrative regulations to administer KRS 353.500 to 353.720. KRS 353.570 requires a person to obtain a permit prior to drilling, deepening, or reopening a well. KRS 353.590 requires a bond be posted with a permit application. KRS 349.040 requires a person to obtain a permit prior to drilling, deepening, converting, or reopening a well. KRS 349.120 requires a bond be posted with a permit application for coalbed methane wells. KRS 353.745 authorizes the Division of Oil and Gas ~~[Conservation]~~ to charge a fee, not to exceed fifty (50) dollars, to provide funds to meet the requirements of KRS 353.735 to 353.747. This administrative regulation provides general information concerning ~~[the timeframes associated with]~~ the submittal of permit application, bond submittal, directional and inclination surveys, and establishes the fee and details to whom the fee applies and the appropriate time for submittal.

Section 1. (1) General Permit Application Requirements. A person shall not drill, deepen, or reopen an oil or gas well without first obtaining a permit from the division pursuant to KRS

1 353.570 or KRS 349.040. Each person who intends to engage in oil and gas operations shall file
2 with the division a complete, accurate, and notarized Application for Permit, Form OG-1.

3 (2) Application Review. (a) The Department shall review the Application for Permit, Form
4 OG-1 for administrative and technical completeness and compliance with:

5 1. 805 KAR Chapter 1 for all wells; and

6 2. KRS Chapter 353 for production wells; or

7 3. KRS Chapter 349 for coalbed methane wells.

8 (b) If the application is administratively or technically incomplete, the division shall notify
9 the applicant after review of the application of the deficiencies that render the application incomplete.

10 (c) The applicant shall submit supplemental information to correct the identified deficiencies
11 within thirty (30) days after notification of the deficiencies.

12 (d) If, after thirty (30) days, the application is still incomplete, the division may return the
13 incomplete application to the applicant with written notification of the reasons for the determination.

14 (3) Review of violations. (a) After the application has been determined to be administratively
15 and technically complete, the division shall perform a compliance review of the application and the
16 applicant pursuant to KRS 353.572. The division shall not approve an application for permit if the
17 application or the applicant is not in complete compliance with KRS 353.572.

18 (b) During the compliance review, the division shall review the readily available compliance
19 information related to the application and the applicant.

20 (c) The division shall notify the applicant in writing if the application is not approved.

21 (4) Final Determination. Once the division determines that the application is administratively
22 and technically complete and has not found compliance violations, a permit authorization shall be
23 issued.

1 (5) Bonding Requirements. (a) As part of the permit application required by subsection (1)
2 of this section, the applicant shall submit a bond in an amount required by KRS 353.590(7) for
3 production wells or KRS 349.120 for coalbed methane wells.

4 (b) Operators that secure a surety bond to satisfy the requirements of this subsection shall
5 comply with the requirements of 805 KAR 1:050.

6 Section 2. Directional and Inclination Surveys. The operator of a well drilled in an active
7 mining area or through a workable coal bed that is not in an active mining area shall submit to the
8 division the results of the directional or inclination survey required by KRS 353.739(1) within thirty
9 (30) days from the drilling of the well.

10 Section 3[2]. Fee Submittal. (1) Each application for an oil or gas permit shall be
11 accompanied by a fee of fifty (50) dollars for each application for an oil or gas permit in addition to
12 the fee required in KRS 353.590(2) or KRS 349.040(3) [any other fee required for these
13 applications].

14 (2) All required fees shall be submitted to the division [~~fees required shall accompany the~~
15 ~~application for wells proposed to be drilled pursuant to the provisions of KRS 353.735 to 353.747]~~
16 in the form of a personal check, cashier's check, or money order payable to the Kentucky State
17 Treasurer. A permit application shall not be processed unless the application fee has been paid.

18 (3) All fees shall be for the sole use of the Division of Oil and Gas [~~Conservation~~] in the
19 administration of its programs and shall be in addition to money appropriated by the General
20 Assembly for the use of the division [~~cabinet~~].

21 Section 4. Recordkeeping. Within ninety (90) days of completion of the drilling of a well,
22 the operator shall file the "Affidavit of Well Log and Completion Report, form OG-3.

1 Section 5. Testing Permits. (1) An owner or operator may investigate an abandoned oil or
2 gas production well for the purposes of testing after having submitted:

3 (a) A completed and notarized application "Testing Permit Application" Form OG-42; and

4 (b) A twenty-five dollar (\$25) fee pursuant to KRS 353.730.

5 (2) The division shall approve a testing permit for a period of up to 60 days. If the well is
6 not tested within the testing period, a new application and fee shall be submitted.

7 (3) At the conclusion of the testing period, the operator shall submit a completed and
8 notarized "Report of Investigation for Testing Permit" Form OG-43 to the division.

9 (a) If the operator wishes to assume ownership for the well, a bond shall be filed in
10 accordance with KRS 353.590(7); or

11 (b) If the applicant does not wish to assume ownership of the well, then the well shall be
12 closed at the surface with a valve or swedge assembly installed on the casing head.

13 (4) All fees shall be for the sole use of the Division of Oil and Gas in the administration of
14 its programs and shall be in addition to money appropriated by the General Assembly for the use of
15 the cabinet.

16 Section 6. Incorporation by Reference. (1) The following material is incorporated by
17 reference:

18 (a) "Application for Permit", Form OG-1, June 2019;

19 (b) "Well log and Completion Report", Form OG-3, ~~October~~ **June** 2019;

20 (c) "Testing Permit Application", Form OG-42, June 2019; and

21 (d) "Report of Investigation for Testing Permit", Form OG-43, June 2019.

1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,
2 at the Division of Oil and Gas, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through
3 Friday, 8 a.m. to 4:30 p.m., Eastern Prevailing Time.

805 KAR 1:200 approved for filing.
Pages (1-5)

10/14/2019

Date

Charles G. Snavely
Charles G. Snavely, Secretary
Energy and Environment Cabinet

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation No.: 805 KAR 1:200
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides general information concerning the submittal of permit application, bond submittal, directional and inclination surveys, and establishes the fee and details to whom the fee applies and the appropriate time for submittal.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide general permitting information.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 353.570 requires an entity to obtain permit before conducting oil or gas drilling operations. This administrative regulation is necessary to establish general permitting information.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing general permitting information for oil and gas operators.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will introduce general permitting, bonding, and fee information. The amendment also includes information related to testing permits and recordkeeping. The administrative regulation is amended to insert "Eastern Prevailing Time" into the incorporation by reference section.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide general information related to obtaining a permit that was previously not in administrative regulation. The amendment was also necessary to incorporate by reference forms that weren't previously incorporated. The amendment made in response to comment is necessary to clarify the time to copy or review material incorporated by reference is Eastern Prevailing Time.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment provides general information related to obtaining a permit which is required by KRS 353.570. The amendment made in response to comment is necessary to clarify the time to copy or review material incorporated by reference is Eastern Prevailing Time.

(d) How the amendment will assist in the effective administration of statutes: These

amendments will assist in the effective administration of the statutes by providing general information related to permits, bonds, recordkeeping, and testing permits. The amendment made in response to comment assists in the effective administration of the statutes by clarifying the time to copy or review material incorporated by reference is Eastern Prevailing Time.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. There are approximately 1,060 active oil and gas operators in the commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities identified in question (3) will meet the same requirements related to permitting information, testing permits, and recordkeeping. This amendment doesn't include new requirements. It simply reorganizes the information into one administrative regulation and provides appropriate statutory references. The entities will also need to be aware that the Division's listed hours of operation in the material incorporated by reference section are Eastern Prevailing Time.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs for related to these amendments or the amendment made in response to comment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, entities will be able to find general permitting, recordkeeping, and testing permit information in one administrative regulation. The amendments made in response to comment will benefit the entities in question (3) by clarifying the Division's hours of operation are to be interpreted as Eastern Time.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The division will not incur any additional costs for the implementation of this administrative regulation.

(b) On a continuing basis: The division will not incur any additional costs for the continued implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: A combination of general and restricted funds will be used for the implementation of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees

or funding is necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees. This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees. The inclusion of the \$25 testing permit fee was already established in statute but was included in the administrative regulation for convenience of the oil or gas operator seeking a testing permit.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used.)

No, tiering was not used. The provisions in this administrative regulation will apply equally to all oil and gas operators.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

Administrative Regulation No.: 805 KAR 1:200
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

This administrative regulation will impact the Division of Oil and Gas.

2. Identify each state or federal statute or federal regulation that requires or authorizes action taken by the administrative regulation. KRS 349.040, 353.540, 353.570, 353.590, and 353.745.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The proposed administrative regulation will not generate revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The proposed administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? The cabinet's current operating budget will be used to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The cabinet's operating budget will be used to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impacts of the administrative regulation.

Revenues (+/-):	There is no known effect on current revenues.
Expenditures (+/-):	There is no known effect on current expenditures.
Other Explanation:	There is no further explanation.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE
805 KAR 1:200

This administrative regulation incorporates the following documents:

I. Application for Permit, Form OG-1 (June 2019) This form is used by oil and gas operators to request a permit to drill an oil or gas well. This is a new form and consists of 4 pages.

II. Well log and Completion Report, Form OG-3 (October 2019) This form is submitted by an operator when drilling of a well has been completed. This form was amended in response to comment. the form was amended to include the number of stages as well as the measured depth of the beginning and ending of production. This is a new form and consists of 2 pages.

III. Testing Permit Application, Form OG-42 (June 2019) This form is provided for well operators to request a testing permit. This is a new form and consist of 1 page.

IV. Report of Investigation for Testing Permits, OG-43 (June 2019) This form is provided by well operators at the conclusion of the testing period to report the results of the investigation. This is a new form and consist of 1 page.